

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE LOESTRIN 24 FE ANTITRUST
LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

MDL NO. 2472

Master File No. 1:13-md-2472-S-
PAS

CASE MANAGEMENT ORDER NUMBER 2 - Supplement (End Payors)

WILLIAM E. SMITH, Chief Judge.

Case Management Order No. 2 requires End-Payor Interim Co-Lead Counsel to make common-benefit time and expense reports available to the Court on a quarterly basis in an *ex parte*, confidential sealed submission. By this supplement to Case Management Order No. 2, IT IS HEREBY ORDERED:

1. This Order applies to the End-Payor Class Plaintiffs.

2. To clarify Case Management Order No. 2, "Participating Counsel" as defined in Case Management Order No. 2 refers to all counsel who have filed appearances on behalf of any End-Payor Class Plaintiff and who desire to be considered for common benefit compensation, including all counsel designated as Liaison Counsel, Interim Co-Lead Counsel and Executive Committee Counsel in Case Management Order No. 2. Any time and expenses not made available to

the Court on a quarterly basis as required by Case Management Order No. 2 will not be considered in connection with any attorney fee award in this case.

3. Timekeepers making daily contemporaneous time records as required by Case Management Orders No. 2 shall assign one (and only one) Task Code to each time entry. Timekeepers shall use the Task Codes that appear at Appendix A to this Order.

4. Law firms recording expenses as required by Case Management Order No. 2 shall assign one (and only one) Expense Category to each expense incurred for the common benefit of the class. Law firms shall use the Billing Categories that appear at Appendix B to this Order. Either the law firms or their Certified Public Accountant ("CPA") shall retain copies of appropriate receipts documenting expenses for review upon request by the Court, but shall not submit them in connection with the time and expense reports made available to the Court on a quarterly basis.

5. Daily time submissions shall be submitted to the Court for quarterly review in four formats, all of which shall include the following columns: Firm, Timekeeper, Title (of the Timekeeper, such as partner, associate, paralegal, contract attorney, etc.), Date, Hours, Description of the task in sufficient detail to reveal how

the task conferred a benefit on the class, Task Code, Rate (hourly), and Lodestar.

6. The four formats reflecting data for the quarter under review are as follows:

a. Required Format No. 1: Each firm shall be a separate spreadsheet. The timesheet shall be sorted alphabetically by timekeeper, and then presented chronologically (oldest date first) for each timekeeper. An example of this format appears at Appendix C.

b. Required Format No. 2: Each firm shall be a separate spreadsheet. The timesheet shall be merged chronologically (oldest date first) across all timekeepers at the firm. An example of this format appears at Appendix D.

c. Required Format No. 3: All law firms shall be merged in a single spreadsheet. The timesheet shall be merged chronologically (oldest date first) for all timekeepers across all law firms. An example of this format appears at Appendix E.

d. Required Format No. 4: All law firms shall be merged in a single spreadsheet. The timesheet shall be merged across all law firms, sorted by Task Code,

and then sorted chronologically (oldest date first).

An example of this format appears at Appendix F.

7. The quarterly reports to the Court shall also include two compilations of the time and expenses for the period under review. Each compilation shall include totals for the quarter under review and from the inception of the case.

a. Required Compilation No. 1: The total lodestar for each Task Code and the total amount for each Expense Category shall be presented as totals for each firm. An example of this format appears at Appendix G.

b. Required Compilation No. 2: The total lodestar for each timekeeper shall be presented from highest to lowest for the quarter under review, arranged to designate the timekeeper's firm, with columns running the total for the current quarter and from the inception of the case. An example of this format appears at Appendix H.

8. All of the required formats and compilations listed in paragraphs 6 and 7 above shall be presented in PDF format and shall be submitted to the Court by email, *ex parte*, confidential and sealed; they are not required to be submitted in hard copy. The formats outlined in Appendices

C through F shall also be submitted in Microsoft Excel format by email.

9. Time and Expense Reports will be reviewed quarterly on the following schedule:

a. The compilation of time and expense reports shall follow the quarters of the calendar year: January-March (Quarter 1), April-June (Quarter 2), July-September (Quarter 3), and October-December (Quarter 4).

b. Within forty-five days of the end of each quarter, the End-Payor Class Plaintiffs shall submit to the Court the required time and expense reports; precise deadlines for these submissions through the end of 2014 have been set by text order. Deadlines for 2015 will be set in due course by text order.

c. Upon receipt of the time and expense submissions, the Court will make arrangements for *ex parte* conferences, typically to be held within three weeks of receipt of the submissions. The Court will shortly enter a text order setting the date and time for the *ex parte* meeting to review the Quarter 2 submission.

10. As specified in Case Management Order No. 2, quarterly review by the Court of the time and expense

reports shall not constitute a determination of the reasonableness of the time and expenses reflected in them. All time and expenses will remain subject to approval by the Court at the conclusion of the litigation, if applicable.

11. End-Payor Class Plaintiffs shall have an opportunity to cure technical failures to comply with Case Management Order No. 2, as supplemented by this Order, or to provide additional information to substantiate how a task benefits the class or otherwise to alter a previously submitted time and expense report as follows:

a. For errors or deficiencies identified by the CPA, the submitting law firm may cure the issue any time before the quarterly report is submitted to the Court for review.

b. For issues identified by the Court at the quarterly *ex parte* meeting, the submitting law firm may cure by a corrected submission in the appropriate formats within thirty days of the meeting at which the deficit is identified. Any such re-submissions to the Court shall clearly identify the correction. Time and expenses incurred as a result of such resubmission are not for the common benefit.

12. This Order applies retrospectively in that End-Payor Class Plaintiffs shall resubmit their time and expense reports, in the formats and compilations required by this Order, reflecting all expenses and time for all End-Payor Class Counsel incurred for the common benefit of the End-Payor Class from the beginning of work on this matter through to March 31, 2014, *ex parte* and under seal, on or before July 25, 2014. The meeting to review this submission is set for August 6, 2014, at 3:00 p.m. The Court will enter a text order setting out these deadlines.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "WESmith", is written above a horizontal line.

William E. Smith
Chief Judge

Date: June 16, 2014

APPENDIX A

**Uniform Billing Task Codes
For Direct-Purchaser Plaintiffs and End-Payor Plaintiffs**

1. Factual investigation/Development
2. Pleadings
3. Litigation Strategy and Analysis
4. Pretrial Motions – Dispositive
5. Pretrial Motions – Discovery
6. Pretrial Motions – Other
7. Discovery – Written Discovery
8. Discovery – Document Production and Review
9. Discovery – Depositions
10. Discovery – Expert Discovery
11. Discovery – Other
12. Expert/Consultants
13. Pretrial Court Appearances – attendance at hearing/conference
14. Pretrial Court Appearances – participation in argument/colloquy
15. Settlement and ADR
16. Class Certification and Notice
17. Trial Preparation – Fact Witnesses
18. Trial Preparation – Expert Witnesses
19. Trial Preparation – Written Motions and Submissions
20. Trial Preparation – Other Trial Preparation and Support
21. Trial – Attendance
22. Trial – Post-trial motions and submissions
23. Appeals – Motions, briefs and other submissions
24. Appeals – Oral argument
25. Case Management and Administration
26. Travel time (capped at 50% of time travelling)

APPENDIX B

**Uniform Expense Categories
For Direct-Purchaser Plaintiffs and End-Payor Plaintiffs**

1. Reproduction cost
2. FedEx/Messenger/Postage
3. Travel
4. Hotel
5. Meals
6. Cash expenses for which receipts are not available
7. Telephone/Teleconference/Fax
8. Service of subpoenas
9. Computer research
10. Filing fees and other court costs
11. Document database vendor
12. Court transcripts
13. Deposition transcripts
14. Miscellaneous case cost
15. Consulting/Expert fees
16. Other (describe)

APPENDIX C***Sample Timesheet – Required Format No. 1**

Firm	Timekeeper	Title	Date	Hours	Description	Task Code	Rate	Lodestar
Jones & Jones	John Ace	Paralegal	9/18/14	0.3	Complete Complaint cover sheet	2	\$125	\$37.50
Jones & Jones	John Ace	Paralegal	9/20/14	0.5	File Complaint at Federal Courthouse in Providence	2	\$125	\$62.50
Jones & Jones	Mary Jones	Partner	8/19/14	2.4	Review and edit draft of Complaint	2	\$525	\$1,260
Jones & Jones	Mary Jones	Partner	8/24/14	0.8	Confer with co-counsel on latest draft of Complaint	2	\$525	\$420
Jones & Jones	Mike Smith	Associate	8/1/14	3.4	Continue draft of memorandum on causes of action in complaints filed by similar plaintiffs	3	\$300	\$1,020

* For Appendices C through F, the hourly rates and task codes are placeholders and not meant to carry a presumption of reasonableness or accuracy.

APPENDIX D**Sample Timesheet – Required Format No. 2**

Firm	Timekeeper	Title	Date	Hours	Description	Task Code	Rate	Lodestar
Jones & Jones	Mike Johnson	Associate	8/1/14	3.4	Continue draft of memorandum on causes of action in complaints filed by similar plaintiffs	3	\$300	\$1,020
Jones & Jones	Mary Jones	Partner	8/18/14	2.4	Review and edit draft of Complaint	2	\$525	\$1,260
Jones & Jones	John Smith	Paralegal	8/18/14	0.3	Complete Complaint cover sheet	2	\$125	\$37.50
Jones & Jones	Mary Jones	Partner	8/24/14	0.8	Confer with co-counsel on latest draft of Complaint	2	\$525	\$420
Jones & Jones	John Smith	Paralegal	9/20/14	0.5	File Complaint at Federal Courthouse in Providence	2	\$125	\$62.50

APPENDIX E**Sample Timesheet – Required Format No. 3**

Firm	Timekeeper	Title	Date	Hours	Description	Task Code	Rate	Lodestar
Jones & Jones	Mike Johnson	Associate	8/1/14	3.4	Continue draft of memorandum on causes of action in complaints filed by similar plaintiffs	3	\$300	\$1,020
Reed & Reed	John Reed	Partner	8/5/14	5	Begin Draft of Complaint	2	\$575	\$2,875
Jones & Jones	Mary Jones	Partner	8/19/14	2.4	Review and edit draft of Complaint	2	\$525	\$1,260
Mark & Mark	Steve Staple	Associate	8/21/14	6	Review and analyze answers to first set of RFPs	7	\$375	\$2,250
Jones & Jones	Mary Jones	Partner	8/24/14	0.8	Confer with client on latest draft of Complaint	2	\$525	\$420
Smith & Smith	Beth Peter	Partner	9/15/14	5.4	Review and analyze '111 patent	1	\$625	\$3,375
Jones & Jones	John Smith	Paralegal	9/18/14	0.3	Complete Complaint cover sheet	2	\$125	\$37.50
Jones & Jones	John Smith	Paralegal	9/20/14	0.5	File Complaint at Federal Courthouse in Providence	2	\$125	\$62.50

APPENDIX F**Sample Timesheet – Required Format No. 4**

Firm	Timekeeper	Title	Date	Hours	Description	Task Code	Rate	Lodestar
Smith & Smith	Beth Peter	Partner	7/15/14	5.4	Review and analyze '111 patent	1	\$625	\$3,375
Jones & Jones	Mike Johnson	Associate	7/19/14	3	Conduct review of '111 patent	1	\$300	\$900
Reed & Reed	John Reed	Partner	8/5/14	5	Begin Draft of Complaint	2	\$575	\$2,875
Jones & Jones	Mary Jones	Partner	8/19/14	2.4	Review and edit draft of Complaint	2	\$525	\$1,260
Jones & Jones	Mary Jones	Partner	8/24/14	0.8	Confer with client on latest draft of Complaint	2	\$525	\$420
Smith & Smith	Peter Beth	Associate	9/1/14	4.3	Revise draft of Complaint	2	\$275	\$1,182.50
Jones & Jones	John Smith	Paralegal	9/18/14	0.3	Complete Complaint cover sheet	2	\$125	\$37.50
Jones & Jones	Mike Johnson	Associate	8/1/14	3.4	Continue draft of memorandum on causes of action in complaints filed by similar plaintiffs	3	\$300	\$1,020
Mark & Mark	Steve Staple	Associate	8/21/14	6	Review and analyze response to first set of RFPs	7	\$375	\$2,250
Jones & Jones	Mary Jones	Paralegal	9/14/14	0.6	Conference with defense counsel J. Smith on interrogatory discovery dispute	7	\$525	\$315

APPENDIX G**Required Compilation No. 1:****Time & Expenses by Task Code for Current Quarter**

Task Codes	Firm A	Firm B	Firm C	Total
1				
2				
3				
4				
Expense Codes				
1				
2				
3				
4				

Time & Expenses by Task Code from Case Inception through Current Quarter

Task Codes	Firm A	Firm B	Firm C	Total
1				
2				
3				
4				
Expense Codes				
1				
2				
3				
4				

APPENDIX H**Required Compilation No. 2:****Time Compilation by Timekeeper (Sorted Highest to Lowest by Current Quarter)**

Name	Rate	Title	Firm A	Firm B	Firm C	Total - Quarter	Total - Case Inception
Jones, John	\$400	Partner		\$100,000		\$100,000	\$110,000
Smith, Sue	\$125	Paralegal	\$50,000			\$50,000	\$150,000
Black, Bill	\$350	Associate			\$25,000	\$25,000	\$40,000
Grand Total:						\$175,000	\$300,000